IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 2083 of 1984

For Approval and Signature:

Hon'ble MR.JUSTICE AKSHAY H.MEHTA

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

MAHMADKHAN H BALOCH

Versus

STATE OF GUJARAT

Appearance:

1. Special Civil Application No. 2083 of 1984

MR RN SHAH for Petitioner No. 1

MS DS PANDIIT A.G.P. for Respondent No.1, 2-3, 5-7

MR SB NANAVATI for Respondent No. 4

CORAM : MR.JUSTICE AKSHAY H.MEHTA

Date of decision: 04/09/2002

ORAL JUDGEMENT

1. In this petition, the petitioner has prayed that Section 165 (2) of the Gujarat Police Manual, 1975 be

declared as ultra-vires, ab-initio-void and illegal.

2. The petitioner was recruited in the service of the police department in the year 1959 as Constable. Subsequently, he was promoted to the post of 3rd Grade Head Constable and in the month of November, 1977 as 1st Grade Head Constable. The grievance of the petitioner is that the next promotional post for him was the post of Police Sub-Inspector provided he pass the departmental examination. Accordingly, he appeared in the examination with the permission of the Director General of Police and cleared the same. Thereafter he became eligible for being called in the oral test. He was called in the oral interview which was to be done by a committee formed under the provisions of Gujarat Police Manual. His grievance is that on that day respondent no.2 who was the member of the committee was not present. By virtue of the provisions of Gujarat Police Manual was not the person, inspite of that Mr.Ravani was member of the interview committee/panel who put some formal questions to the petitioner and thereafter he was asked to go. Later on, he found that though 45 head constables were promoted, he was left out. He, therefore, alleged that the promotion was granted to the persons who were favourities of Mr.Ravani. While challenging the action of the respondent in not granting promotion to him he has also challenged the validity of the instruction under Section 165 (2) (b) of the Gujarat Police Manual, 1975.

2.1. The petition came to be admitted on 19th April, 1994. At that time by way of interim-relief respondents were directed to keep one post of Sub-Inspector vacant.

2.2. A statement is now made before this Court by the learned counsel for the petitioner that he has already retired from the service of the police department. Considering the averments and the grievance made by the petitioner and also the relief prayed for by him in this petition, it clearly appears that with the retirement of the petitioner from the service they do not survive. In short after the retirement of the petitioner from service, this petition has now become infructuous. Hence it is required to be dismissed on that ground alone. The petition, therefore, stands dismissed as having become infructuous. Rule is discharged with no order as to costs. Interim relief granted earlier stands vacated.

[AKSHAY H. MEHTA, J.]

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